

Patsy Bee, Inc. and Northwestern District Council of the International Ladies Garment Workers' Union, affiliated with International Ladies Garment Workers' Union, AFL-CIO. Cases 17-CA-8835, 17-CA-8884, and 17-RC-8710

April 20, 1983

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS JENKINS, ZIMMERMAN, AND HUNTER

On June 2, 1980, the National Labor Relations Board issued a Decision and Order in the above-entitled proceeding,¹ in which the Board found, *inter alia*, that Respondent violated Section 8(a)(1) of the Act, and ordered that Respondent cease and desist therefrom and take certain affirmative action to remedy the unfair labor practices, including, *inter alia*, bargaining, upon request, with the Union as the exclusive collective-bargaining representative of the employees in the appropriate unit. With respect to Case 17-RC-8710 the Board set aside the results of the election held on March 27, 1979; and, as no question concerning representation existed in view of the order requiring bargaining with the Union, found it unnecessary to pass on the Union's objections and ordered that the petition in Case 17-RC-8710 be dismissed.

Thereafter, Respondent filed a petition for review of the Board's Order with the U.S. Court of Appeals for the Eighth Circuit, and the Board filed a cross-application for enforcement of its Order. On July 22, 1981, the court granted Respondent's petition, denied enforcement of the Board's bargaining order,² and remanded the case

back to the Board. By letter dated August 4, 1982, the parties were advised that in light of the court's denial of enforcement of the bargaining order, the Board was considering the direction of a new election, and that all parties were invited to file statements of position with regard to this contemplated action due on or before August 23, 1982. On August 20, 1982, the Employer filed a statement of position, contending that, because of substantial turnover in the bargaining unit, the Board should not order a second election.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

We, having duly considered the matter, accept the court's opinion as the law in Cases 17-CA-8835 and 17-CA-8884. With respect to Case 17-RC-8710, we hereby adopt the Administrative Law Judge's finding that the Employer interfered with the employees' free choice in the election by threatening the employees with loss of employment and the withholding of benefits because of their union activity. We shall sustain, therefore, the Union's Objection 2, set aside the election held on March 27, 1979, and direct a second election.

ORDER

It is hereby ordered that the bargaining order issued in Cases 17-CA-8835 and 17-CA-8884 be, and it hereby is, rescinded.

IT IS FURTHER ORDERED that the petition in Case 17-RC-8710 be, and it hereby is, reinstated, that the election previously conducted herein on March 27, 1979, be, and it hereby is, set aside, and that Case 17-RC-8710 be, and it hereby is, remanded to the Regional Director for Region 17 to conduct a second election as directed below.

[Direction of Second Election and *Excelsior* footnote omitted from publication.]

¹ 249 NLRB 976.

² In denying the Board's bargaining order, the court did not pass on the uncontested 8(a)(1) violations. Pursuant to this, the Board sought an amended judgment seeking enforcement of this part of its order which the court issued on December 16, 1981.